

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RENE DEWAYNE MANUEL,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. C24-5529JLR

ORDER

I. INTRODUCTION

This matter comes before the court on the report and recommendation (“R&R”) of United States Magistrate Judge Michelle L. Peterson. (R&R (Dkt. # 16).) On July 2, 2024, *pro se* Petitioner Rene Dewayne Manuel filed a proposed petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241¹ and a memorandum in support of his

¹ As stated in the report and recommendation, because Mr. Manuel is in custody and challenges his state criminal conviction and sentence, his petition is properly construed as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (R&R at 1.)

petition (Petition (Dkt. # 1-1); Memo. (Dkt. # 1-2)), a request for certification (Req. (Dkt. # 1-3)), a motion to waive a magistrate judge's report and recommendation (MJ Mot. (Dkt. # 1-5)), and a motion to appoint standby counsel (Mot. Appt. (Dkt. # 1-6)). Neither Mr. Manuel nor Respondent Jason Bennett objected or otherwise responded to Magistrate Judge Peterson's report and recommendation recommending dismissal of Mr. Manuel's petition by the October 15, 2024 deadline.² (R&R at 3; *see generally* Dkt.) Having carefully reviewed all of the foregoing, along with all other relevant documents, and the governing law, the court ADOPTS the report and recommendation, DISMISSES Mr. Manuel's habeas corpus petition, and DENIES Mr. Manuel's request for certification, proposed motion to waive a magistrate judge's report and recommendation, and proposed motion to appoint standby counsel.

II. ANALYSIS

A district court has jurisdiction to review a magistrate judge's report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations *de novo* if objection is made, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

² Mr. Manuel did, however, file a motion to appoint counsel after Magistrate Judge Peterson filed her report and recommendation. (Dkt. # 17.)

1 Magistrate Judge Peterson recommends that the court dismiss Mr. Manuel's
2 petition without prejudice for failure to exhaust his state court remedies. (R&R at
3 1-3.) Mr. Manuel has not objected to that recommendation. (*See generally* Dkt.) The
4 court has thoroughly examined the record before it and finds Magistrate Judge Peterson's
5 reasoning persuasive in light of that record. The court has also independently reviewed
6 Mr. Manuel's petition and agrees with the reasoning and conclusions set forth in the
7 report and recommendation. Accordingly, the court ADOPTS the report and
8 recommendation, DISMISSES Mr. Manuel's habeas corpus petition, and DENIES Mr.
9 Manuel's request for certification, proposed motion to waive a Magistrate Judge's report
10 and recommendation, and proposed motion to appoint standby counsel.

11 III. CONCLUSION

12 For the foregoing reasons, the court hereby ORDERS as follows:

13 (1) The court ADOPTS the report and recommendation (Dkt. # 16) in its entirety;

14 (2) The court DISMISSES Mr. Manuel's habeas corpus petition (Dkt. # 1-1)
15 without prejudice for failure to exhaust state court remedies;

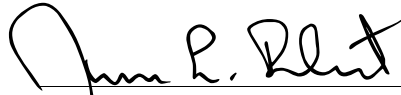
16 (3) The court DENIES Mr. Manuel's request for certification (Dkt. # 1-3),
17 proposed motion to waive a magistrate judge's report and recommendation (Dkt. # 1-5),
18 and proposed motion to appoint standby counsel (Dkt. # 1-6) as moot;

19 (4) The court DENIES Mr. Manuel's motion to appoint counsel (Dkt. # 17);

20 (5) The court DENIES issuance of a certificate of appealability for the reasons set
21 forth in the report and recommendation; and
22

1 (6) The court DIRECTS the Clerk to send copies of this order to Mr. Manuel and
2 to Magistrate Judge Peterson.

3 Dated this 24th day of October, 2024.

4 

5 JAMES L. ROBART
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22